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| 10/089,302      | 03/29/2002  | Isao Takasu          | 029430-507          | 7377             |

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EXAMINER

HAILEY, PATRICIA L

ART UNIT

PAPER NUMBER

1755

DATE MAILED: 07/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/089,302

Applicant(s)

TAKASU ET AL.

Examiner

Patricia L. Hailey

Art Unit

1755

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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Applicants' Preliminary Amendment, filed on March 29, 2002, has been made of record and entered. With the entry of this amendment, claims 4-6, 8, and 10 have been amended to eliminate multiple claim dependency. No claims have been canceled or added, and no new matter has been added in these amendments.

Claims 1-11 remain pending in this application.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Umemura et al. (U. S. Patent No. 4,225,462).**

Umemura et al. teach a water-resistant catalyst comprising barium sulfate and water-insoluble vanadium(IV)oxide sulfate. See col. 3, line 54 to col. 4, line 5 of Umemura et al.

The phrase "for decomposing an organic halide(s)" recited in claim 1 is considered to be a statement of intended use and is not given patentable weight.

In view of these teachings, the reference to Umemura et al. anticipates claim 1.

*Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**6. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Imanari et al. (U. S. Patent No. 4,378,338).**

Imanari et al. teach a catalyst composition comprising at least three components of titanium, vanadium, and magnesium, and, optionally, tungsten, wherein the titanium and tungsten are present as oxides and the vanadium and magnesium are present as oxides and/or sulfates. See col. 2, line 60 to col. 3, line 36 of Imanari et al., which also discloses percentages of the aforementioned components in terms of atomic ratio. These percentages are considered to read upon the percentages of the components recited in the instant claims.

Exemplary compounds representing the aforementioned components include titanium oxide, vanadyl sulfate, magnesium sulfate, magnesium oxide, and tungsten oxide. See col. 3, lines 37-55 of Imanari et al.

The catalyst may additionally contain additional components such as barium, strontium, and calcium, and beryllium. See col. 5, lines 33-46 of Imanari et al.

The catalyst disclosed in Imanari et al. can be used in "a widespread range of applications to various waste gases" (col. 4, lines 32-33), and at temperatures ranging from 150°C to 650°C. See col. 4, lines 16-33 of Imanari et al. From this, one of ordinary skill in the art would conclude that the catalyst of Imanari et al. would be suitable in the decomposition of organic halides, given that the temperature range disclosed in Imanari et al. encompasses the temperature at which Applicants' catalyst is contacted with the organic halide(s) (claim 9), absent the showing of convincing evidence to the contrary.

Further, while Imanari et al. disclose vanadyl sulfate (col. 3, line 44-46), this reference does not specifically state "water-insoluble vanadyl sulfate", as instantly claimed. However, this teaching by Imanari et al. is considered to read upon vanadyl sulfate in all its forms.

### *Conclusion*

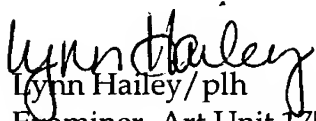
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L. Hailey whose telephone number is (703) 308-3317. The examiner can normally be reached on Mondays-Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark L. Bell can be reached on (703) 308-3823. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-0661.

  
Lynn Hailey/plh  
Examiner, Art Unit 1755  
July 2, 2003

  
Mark L. Bell  
Supervisory Patent Examiner  
Technology Center 1700